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KT photo | **Tim Bath**
Rob Burgess, Tribune night editor

House of Burgess: Car tags are government speech

Court upholds Sons of Confederate Veterans specialty plate denial

By Rob Burgess
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***Author's note:** As per usual for this time of year, the Supreme Court issued a slew of consequential rulings recently on a bevy of hot-button issues. This is the first in my third annual three-part series exploring a few of them.*

When you see a specialty license plate, whom do you think is speaking? After hearing arguments March 23, the Supreme Court decided just such a question June 18.

In the case of John Walker III, Chairman, Texas Department of Motor Vehicles Board v. Texas Division, Sons of Confederate Veterans, the high court found in the state's favor. The majority opinion was written by Associate Justice Stephen Breyer, who was joined by Clarence Thomas, Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan.

"In 2009, the [nonprofit SCV asked] to sponsor a specialty license plate," wrote Breyer. "At the side [of the proposed plate] was the organization's logo, a square Confederate battle flag framed by the words 'Sons of Confederate Veterans 1896.'"

The plate was denied in 2010. Breyer found Texas exempt from the First Amendment's Free Speech Clause because "interpreted otherwise, government would not work." Breyer based his conclusions largely on the unanimous decision in the case of Pleasant Grove City, Utah v. Summum, which was argued Nov. 12, 2008, and decided Feb. 25, 2009. In that case, Samuel Alito wrote the court's ruling, finding "the Free Speech Clause restricts government regulation of private speech; it does not regulate government speech." In the Walker case, Alito found himself authoring the dissent, in which he was joined by

Chief Justice John Roberts, Antonin Scalia and Anthony Kennedy. Alito claimed Breyer was misapplying his Summum decision, saying in its denial, Texas exercised “pure viewpoint discrimination.”

By chance, the 5-4 Walker conclusion was handed down just hours after the June 17 massacre in Charleston, South Carolina. Coupled together with racist terrorist Dylann Storm Roof, 21, this case has prompted reconsideration of the Confederacy’s legacy.

“The governors of Virginia, North Carolina, Maryland and Tennessee said they favored taking the emblem off state specialty license plates in the wake [of the] killings of nine people by a white suspect at a Charleston black church,” reported Jess Bravin of The Wall Street Journal on June 23.

And while Republican Alabama Gov. Robert Bentley voluntarily removed four battle flags June 24 from the Montgomery statehouse, the very state flags of Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina and Tennessee contain Confederate imagery.

“As of the 2010 Census, these states were home to about 60 million Americans — including 12 million African Americans, meaning roughly one-third of the nation’s black population lives under a state

flag that evokes, at least in the eyes of many, the Confederacy,” reported Christopher Ingram of The Washington Post on June 21.

As I wrote in last week’s column, “Well-behaved rarely make history,” Sen. Lindsey Graham, R-South Carolina; President Barack Obama; Hillary Clinton; Sen. Tim Scott, R-South Carolina; Bernie Sanders, I-Vermont; GOP South Carolina Gov. Nikki Haley; Democratic Charleston Mayor Joseph P. Riley, and 2012 Republican presidential candidate and former Massachusetts Gov. Mitt Romney all agreed it was time to remove the Confederate battle flag from the Columbia, South Carolina, statehouse. Yet, when Bree Ann Byuarium Newsome, 30, scaled the flagpole and removed it herself June 27, she and her cohort, James Ian Tyson, 30, also of Charlotte, North Carolina, were arrested.

Monday, the state Senate voted 37-3, “clearing the way for a historic measure that could remove the banner more than five decades after it was first flown above the Statehouse to protest integration,” reported The Associated Press’ Jeffery Collins. (Can we drop the charges against Newsome and Tyson yet?)

As for the license plates, personally, I’m ready to go back to the old school, utilitarian numbers-and-letters motif. This is why we can’t have nice things.

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